

**CALIFORNIA HEALTH FACILITIES FINANCING AUTHORITY
Children's Hospital Bond Act of 2004**

PROPOSED PERMANENT REGULATIONS

**Resolution No. 2005-12
August 25, 2005**

INTRODUCTION:

The Emergency Regulations implementing the Children's Hospital Program are due to expire on September 24, 2005. Staff is seeking Board approval to file with the Office of Administrative Law ("OAL") documentation necessary to obtain permanent regulations.

BACKGROUND:

On November 2, 2004, California voters passed Proposition 61 (the "Act") that enables the State of California to issue \$750 million in General Obligation bonds to fund grants for the Children's Hospital Program ("Program"). The Act designates the California Health Facilities Financing Authority ("Authority") as the administrator of the Program and charged the Authority with developing a written application for the awarding of grants within 90 days of the adoption of the Act. The Authority staff completed the necessary filing procedures and was successful in obtaining adopted emergency regulations with the OAL on February 11, 2005.

Attached is a copy of the proposed permanent regulations, application and application instructions (see Tab A) with text marked to show changes from existing emergency regulations on file with the Secretary of State. The changes reflect substantive and non-substantive public comments received in addition to clarifications suggested by staff and counsel.

SUMMARY OF CHANGES:

The proposed permanent regulations are similar to the emergency regulations the Authority adopted in January 2005 with the substantive changes identified as follows:

Section 7031. Eligible Children's Hospital. Eligibility has been expanded to include hospitals that propose construction projects on leased property. The emergency regulations stipulate that hospitals planning construction projects must own their facilities. In consultation with the Attorney General's Office and outside counsel, the language in the proposed permanent regulations will allow planned construction projects on leased land.

Section 7035. Application Form Submission. The Act allows the Authority 60 days to process and award grants. Due to the timing of the regularly scheduled monthly Board meetings, if an application is received on any day other than the first business day of the

month, staff would need to process and award grants in less than 60 days. Due to the anticipated complexity of some grant applications, staff added clarification to the regulation that all grant applications need to be received on the first business day of the month for consideration at the next month's regularly scheduled Board meeting. The regulation also notes that applications received on October 1 and November 1 will be presented for Board consideration at the regularly scheduled meetings in December and January, respectively, since there is no regularly scheduled November meeting and the December meetings is held the first Thursday in December.

Section 7038. Evaluation Criteria. Clarification was added to this section that a copy of the lease is required for applicants proposing construction projects on leased facilities. Further, the lease must satisfy the requirements of Section 7047.

Section 7040. Appeals. Applicants have the right to appeal a negative decision based on positive responses to the legal status questionnaire. This clarification has been added to the regulation.

Section 7044. Grant Agreements. The terms and conditions of the Grant Agreement have been expanded to include any provisions related to lease agreements pursuant to the regulation detailing requirements for construction projects on leased property (Section 7047).

Section 7045. Release of Funds for Non-University of California Children's Hospitals. The description of documents necessary for the release of funds for non-University of California Children's Hospitals has been expanded to require a copy of a lease agreement for proposed construction projects on leased property.

Section 7046. Release of Funds for University of California Children's Hospitals. The description of documents necessary for the release of funds for University of California Children's Hospitals has been expanded to require a copy of a lease agreement for construction projects on leased property.

Section 7047. Requirements for Construction Projects on Leased Property. The emergency regulations stipulate that all applicants proposing construction must own the property. Section 7047 has been added to allow applicants proposing construction projects on leased property to remain eligible for the Program.

Section 7048. Completion of Grant Funded Project. Language has been added that gives greater flexibility to the Authority to determine when a Project is complete. The emergency regulations identify what documentation is needed. However, there may be cases where the exact documentation identified by regulation cannot be obtained.

Section 7049. Recovery of Funds for Non-Performance and Unused Funds. Additional language has been added to this section to clarify the recovery of funds in the event the projects funded with grant funds cease to be used by the Children's Hospital prior to the end of the useful life of the Project.

BOARD REQUEST:

Staff recommends the Authority approve the proposed Children's Hospital Program permanent regulations for submission to the Office of Administrative Law.